

2005 DRAFTING REQUEST

Bill

Received: **08/31/2004**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 7-7980**

By/Representing: **Rhodes**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - out-of-home placement**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Rhodes -

Topic:

BB0086 Subsidized Guardianship Program

Instructions:

See Attached--redraft 2003 SB 488

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/03/2004	wjackson 09/08/2004 wjackson 09/14/2004		_____ _____ _____ _____			S&L
/1			rschluet 09/14/2004	_____ _____	lnorthro 09/14/2004		S&L
/2	gmalaise 01/18/2005	wjackson 01/19/2005	rschluet 01/19/2005	_____ _____	lnorthro 01/19/2005		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/3	gmalaise 01/26/2005	lkunkel 01/26/2005	jfrantze 01/27/2005	_____	sbasford 01/27/2005		
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FE Sent For:

<END>

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1/31mk 1/26 *2/6 1/26* *2/6/ch*
1/27

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By/Representing: **Blaine**

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May Contact:

Addl. Drafters:

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/?	gmalaise 09/03/2004	wjackson 09/08/2004 wjackson 09/14/2004					S&L
/1		/2 wLj 1/19	rschluet 09/14/2004		Inorthro 09/14/2004		

Handwritten signature and initials, possibly 'CH' and '1/19'.

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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/?	gmalaise	1 wLj 9/13					
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FE Sent For:

<END>

Emery, Lynn

From: Miller, Steve
Sent: Monday, August 23, 2004 9:00 AM
To: Emery, Lynn
Subject: FW: 2005-2007 Statutory Language Budget Requests
















-----Original Message-----

From: Johnston, James
Sent: Friday, August 20, 2004 7:47 PM
To: Miller, Steve
Cc: Caucutt, Dan; Blaine, Robert; Jablonsky, Sue; Milioto, Steve; Rhodes, Dennis
Subject: FW: 2005-2007 Statutory Language Budget Requests

Steve,
Attached are the first wave of DHFS initiated biennial budget requests for possible inclusion in the Governor's budget.
Jim

-----Original Message-----

From: Bove, Fredi-Ellen
Sent: Tuesday, August 17, 2004 4:32 PM
To: Johnston, James
Cc: Ampe, Linda; Bove, Fredi-Ellen; Cunningham, Curtis; Daggett, Cynthia; Dunkel, Donna; Esser,

 statlangcovermemo.doc	 sl WWWP.doc	 sl EMS funding change.doc	 tanning repeal.doc	 sl AIDS technical.doc	 DCFS Subsidized Guardianship.d...	 Definition of Income Mainten...
 Approp Language for Aids to Lo...	 STAT.doc	 sl elim phys prescrip for MH s...	 sl delete req. for 2nd opinion...	 appn structure changes.doc	 ISP Technical Change.doc	 Systems Change.doc
 MHI deficit reporting.doc						

h, Andrew; France, Jennifer; Fredrick, Janet; Groth, Nicole; Hadidian, Ellen; Megna, Richard; Miller, Anne; Munson, Kenneth; Resheske, Mark; Warner, Erin; Welsh, Diane
Subject: 2005-2007 Statutory Language Budget Requests

Attached is the first set of DHFS statutory language requests for the 2005-07 biennial budget. Based on our discussions, my understanding is that you will follow the process used in past biennial budgets and that you will transmit this package to the Legislative reference Bureau with a request that LRB prepare drafts for these items. DHFS will be submitting additional package(s) of 05-07 statutory language requests in the future. Thank you.



**Department of Health and Family Services
Office of Strategic Finance**

PO Box 7850
Madison WI 53707-7850
Phone (608) 266-3816
Fax (608) 267-0358

Date: August 17, 2004

To: Jim Johnston, Chief
Human Resources Budget Team
Department of Administration

From: Fredi Bove, Chief
Budget Section

Subject: 2005-2007 Statutory Language Budget Requests

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Cc: OSF Budget Staff
Kenneth Munson
Diane Welsh



Department of Health and Family Services
2005-2007 Biennial Budget Statutory Language Request
August 23, 2004

Subsidized Guardianship Program – Title IV-E Waiver

Current Language

Under current law, the court may appoint a person the guardian of a child who is in need of protection and services if the court finds all of the following: 1) the child has been placed outside of his or her home for more than one year, 2) the person nominated as the guardian of the child is a relative, 3) the relative will be willing and able to care for the child until the child is 18 years old, 4) that a termination of parental rights is not in the best interest of the child, 5) the child's parent(s) is neglecting and unable to carry out the duties of a guardian, and 6) the child welfare agency has made reasonable efforts for the child to return home but reunification is unlikely or contrary to the best interests of the child.

Proposed Change

The Department has applied for a federal IV-E waiver to implement a subsidized guardianship program at the Bureau of Milwaukee Child Welfare (BMCW). This waiver, which is expected to be approved by August 2004, will provide ongoing payments equivalent to foster care payments to permanent legal guardians of children in licensed foster care. To implement the subsidized guardianship program, the Department requests the following statutory language changes contained in 2003 SB 488:

1. Permits any person, not just a relative, to be appointed as the guardian of a child who has been adjudged to be in need of protection and services;
2. Eliminates the requirement that the child be placed in out-of-home care for at least one year;
3. Permits a child who has been adjudged to be in need of protection or services or whose parents parental rights have been terminated to be placed directly in the home of a guardian without first having been placed in another out-of-home placement;
4. Permits county departments of human services, or in Milwaukee County, BMCW, to provide monthly subsidized guardianship payments to a person who was appointed guardian of a child in need of protection and services, was licensed as the child's foster parent or treatment foster parent before the guardianship appointment, has entered into a subsidized guardianship agreement, and meets either of the following sets of conditions: 1. the child has been placed in out-of-home care for a total period of one year or longer, the agency has

made reasonable efforts to return the child home but reunification is unlikely or contrary to the best interests of the child, and the appointment of a guardian is in the best interest of the child; or 2. the county department has determined and the court has confirmed that appointing a guardian and providing monthly subsidized guardianship payments are in the best interests of the child. The amount of the guardianship payment must be equal to the amount of the foster care or treatment foster care payment received by the guardian immediately before the guardianship order was granted;

5. Allows the subsidized guardianship program to be implemented in counties other than Milwaukee subject to federal approval.

Effect of the Change

The guardianship program will be directed at children who are placed with a relative and have been in licensed out-of-home care for at least one year. The one-year requirement will apply to the overall foster care episode and will ensure that reunification has been actively pursued and ruled out as a permanency option before proceeding to guardianship. For a caretaker to be approved as guardian, the child will need to have been placed with that caretaker for several months to demonstrate the stability of that placement. In certain circumstances, however, there may be exceptions to the one-year and relative placement requirements.

Traditional permanency planning procedures, such as adoption, have proven to be of limited effectiveness in achieving permanency for children placed with relatives. Factors such as familial and cultural preferences and economic realities can leave relatives reluctant to consider alternative permanency goals for children, resulting in long stays in care with little progress toward permanency. The lack of financial subsidy for guardianship has resulted in limited utilization of guardianship as a permanency outcome and child welfare cases remaining open primarily for payment purposes. While these foster care placements remain open for payment purposes, it is necessary to continue child welfare case management and ongoing court jurisdiction to meet federal Title IV-E foster care requirements.

The implementation of the subsidized guardianship program will result in reduced out-of-home care caseloads, decreased administrative costs for case management and court oversight, a lower worker/case ratio at BMCW, less unnecessary involvement with the child welfare system, and increased permanency for children in out-of-home care.

In the absence of the guardianship program, it is assumed that these children would remain in long-term, out-of-home care. For this reason, the subsidized guardianship program does not create additional out-of-home care cost relative to the status quo. The Department will incur one-time administrative costs for modifying the WiSACWIS system, for evaluating the implementation of the waiver, and for staff training for the guardianship program. The Department plans to absorb these costs within its current budget.

Counties other than Milwaukee that elect to implement subsidized guardianship may incur one-time costs in implementing the program. However, since participation would be voluntary, the bill does not, by itself, impose costs on county human services or social services departments.

Rationale for the Change

Guardianship has long been used as a permanency outcome for children. The Adoption and Safe Families Act of 1997 emphasized the importance of guardianship to reduce the length of stay for children in out-of-home care. Current Wisconsin and federal law, however, do not provide a financial assistance to caretakers willing to become permanent legal guardians.

Section 1130 of the Social Security Act provides the federal Department of Health and Human Services (DHHS) with authority to approve up to 10 State child welfare demonstration projects per year which include waivers of certain provisions of Title IV-E. Collectively, these projects are aimed at reducing the number of children in foster care, the length of time in foster care, the use of more restrictive and costly placement settings, re-allegations of abuse and neglect, and re-entry into foster care.

The Department is seeking an agreement with DHHS to waive certain provisions of Title IV-E for purposes of operating a subsidized guardianship payment program. The Department expects approval of this five-year child welfare demonstration program by August 2004 to begin the program between March 2005 and February 2006. If federal DHHS does not renew the waiver after the initial 5-year period, the Department will be responsible to continue the guardianship payments, without any IV-E match, until the children age out. However, the risk of the state losing ability to claim IV-E for these cases is small because DHHS has renewed other states' IV-E waivers.

Failure to implement the subsidized guardianship program would jeopardize achievement of performance targets included in the BMCW legal settlement and performance improvement goals for the federal Child and Family Services Review (CFSR) Program Enhancement Plan (PEP).

Desired Effective Date:	Upon passage of the Budget Bill
Agency:	DHFS
Agency Contact:	Nicole Groth
Phone:	266-9364

2003 - 2004 LEGISLATURE

LRB-3005/21

GMM:wlj:me

stay

2005-07 BUDGET - NOT READY FOR INTRO.

2003 SENATE BILL 488

Please proof
amended stats
w/ stats

February 24, 2004 - Introduced by Senator ROESSLER, cosponsored by Representative KESTELL. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

Do Not Gen

1 AN ACT ~~to repeal~~ 48.977 (1); **to amend** 20.435 (7) (b), 46.10 (14) (a), 46.10 (14)
2 (b), 46.261 (1) (a), 46.261 (2) (a) 1., 46.261 (2) (a) 3., 46.261 (2) (a) 4., 46.261 (2)
3 (b), 46.495 (1) (d), 46.51 (4), 48.33 (4) (intro.), 48.345 (3) (c), 48.356 (1), 48.425
4 (1) (g), 48.427 (3m) (intro.), 48.427 (3p), 48.48 (17) (a) 3., 48.48 (17) (c) 4., 48.57
5 (1) (c), 48.57 (3) (a) 4., 48.57 (3m) (cm), 48.57 (3n) (cm), 48.61 (3), 48.615 (1) (b),
6 48.977 (title), 48.977 (2) (intro.), 48.977 (2) (a), 48.977 (2) (b), 48.977 (2) (c),
7 48.977 (2) (f), 48.977 (4) (a) 4., 48.977 (4) (a) 6., 48.977 (4) (b) 3., 48.977 (4) (c)
8 1. g., 48.977 (4) (e), 48.977 (4) (g) 1., 48.977 (4) (g) 2., 48.977 (4) (h) 1., 48.977 (4)
9 (h) 2., 49.155 (1m) (a) 1m. b., 49.155 (1m) (bm), 49.155 (1m) (c) 1g., 49.46 (1) (a)
10 5., 767.078 (1) (a) 2., 767.29 (1m) (c), 767.29 (2), 767.29 (4), 938.33 (4) (intro.),
11 938.57 (1) (c) and 938.57 (3) (a) 4.; and **to create** 48.427 (3m) (c), 48.62 (5),
12 48.977 (3r) and 938.345 (4) of the statutes; **relating to:** the appointment of a
13 guardian for certain children in need of protection or services, the payment of

SENATE BILL 488

HEALTH AND HUMAN SERVICES

GMM:wlj:jf

Heading

CHILDREN

Subheading

- 1 subsidized guardianship payments to a guardian of a child who meets certain
2 requirements, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may appoint a relative of a child as the guardian of the child if the juvenile court makes certain findings, including a finding that the child has been adjudged to be in need of protection or services and has been placed outside of his or her home pursuant to an order of the juvenile court for one year or longer.

This bill permits any person, not just a relative, to be appointed as the guardian of a child who has been adjudged to be in need of protection or services. The bill also eliminates that one-year waiting period and permits a child who has been adjudged to be in need of protection or services or whose parents' parental rights to the child have been terminated to be placed directly in the home of a guardian without first having been placed in another out-of-home placement. In addition, the bill permits the parental rights of a parent of a child in need of protection or services for whom a guardian has been appointed to be terminated on the grounds of abandonment if, when the juvenile court appointed the guardian, the juvenile court provided the parent with notice of any ground for termination of parental rights that may be applicable and of the conditions necessary for the child to be returned home and the parent has failed to visit or communicate with the child for a period of three months or longer.

Currently, a relative who is appointed as the guardian of a child in need of protection or services and who meets certain other requirements is eligible to receive long-term kinship care payments in the amount of \$215 per month for providing care and maintenance for the child. This bill permits a county department of human services or social services (county department) or, in Milwaukee County, ~~the~~ Department of Health and Family Services (DHFS) to provide monthly subsidized guardianship payments to a person who is appointed as the guardian for a child in need of protection of services; was the licensed foster parent or treatment foster parent of the child before that appointment; and has entered into a subsidized guardianship agreement with the county department or DHFS. A county department or DHFS may provide the monthly subsidized guardianship payments to the person if the child has been placed outside the home for a cumulative total period of one year or longer; the juvenile court has found that reunification of the child with the child's parents is unlikely or contrary to the best interests of the child and that further reunification efforts are unlikely to be made or are contrary to the best interests of the child; and the juvenile court has found that appointment of a guardian is in the best interests of the child, ~~or if~~ if the child does not meet any of those conditions, but DHFS has determined that appointing a guardian for the child and providing subsidized guardianship payments to the guardian are in the best interests of the child and the juvenile court has confirmed that determination.

① ~~Alternatively,~~ A county department or DHFS may also provide monthly subsidized guardianship payments

SENATE BILL 488

Under the bill, the amount of a monthly subsidized guardianship payment is equal to the amount of the monthly foster care or treatment foster care payment received by the guardian immediately before the guardianship order was granted. In addition, a subsidized guardian is eligible for a child care subsidy under the Wisconsin Works Program in the same manner as a foster parent is so eligible, and a child who is in the care of a subsidized guardian is eligible for Medical Assistance in the same manner as a child in foster care is so eligible.

The bill also requires DHFS to request from the secretary of the federal Department of Health and Human Services a waiver of the requirements under Title IV-E of the federal Social Security Act that would authorize the state to receive federal foster care and adoption assistance reimbursement for the costs of providing care for a child who is in the care of a guardian who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment, and who has entered into a subsidized guardianship agreement. If the waiver is approved for Milwaukee County, the bill requires DHFS to provide the monthly subsidized guardianship payments. If the waiver is approved for any other county, the bill requires DHFS to determine which counties are authorized to provide subsidized guardianship payments and requires those authorized counties to provide those payments.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 ~~SECTION 1. 20.435 (7) (b) of the statutes is amended to read:~~

2 ~~20.435 (7) (b) *Community aids*. The amounts in the schedule for human~~

3 ~~services under s. 46.40, to fund services provided by resource centers under s. 46.283~~

4 ~~(5), for services under the family care benefit under s. 46.284 (5), for reimbursement~~

5 ~~to counties having a population of less than 500,000 for the cost of court attached~~

6 ~~intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, and for~~

7 ~~foster care and, treatment foster care, and subsidized guardianship care under s. ss.~~

8 ~~46.261 and 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be~~

9 ~~made from this appropriation. Refunds received relating to payments made under~~

10 ~~s. 46.03 (20) (b) for the provision of services for which moneys are appropriated under~~

11 ~~this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001~~

SENATE BILL 488

SECTION 1

1 ~~(3) (a) and 20.002 (1), the department of health and family services may transfer~~
2 ~~funds between fiscal years under this paragraph. The department shall deposit into~~
3 ~~this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior~~
4 ~~year audit adjustments including those resulting from audits of services under s.~~
5 ~~46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward~~
6 ~~under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all~~
7 ~~funds allocated under s. 46.40 and not spent or encumbered by December 31 of each~~
8 ~~year shall lapse to the general fund on the succeeding January 1 unless carried~~
9 ~~forward to the next calendar year by the joint committee on finance.~~

10 **SECTION 2.** 46.10 (14) (a) of the statutes is amended to read:

11 46.10 (14) (a) Except as provided in pars. (b) and (c), liability of a person
12 specified in sub. (2) or s. 46.03 (18) for inpatient care and maintenance of persons
13 under 18 years of age at community mental health centers, a county mental health
14 complex under s. 51.08, the centers for the developmentally disabled, the Mendota
15 Mental Health Institute, and the Winnebago Mental Health Institute or care and
16 maintenance of persons under 18 years of age in residential, nonmedical facilities
17 such as group homes, foster homes, treatment foster homes, ~~child caring institutions,~~
18 subsidized guardianship homes, residential care centers for children and youth, and
19 juvenile correctional institutions is determined in accordance with the cost-based
20 fee established under s. 46.03 (18). The department shall bill the liable person up
21 to any amount of liability not paid by an insurer under s. 632.89 (2) or (2m) or by other
22 3rd-party benefits, subject to rules that include formulas governing ability to pay
23 promulgated by the department under s. 46.03 (18). Any liability of the patient not
24 payable by any other person terminates when the patient reaches age 18, unless the
25 liable person has prevented payment by any act or omission.

SENATE BILL 488

1 **SECTION 3.** 46.10 (14) (b) of the statutes is amended to read:

2 46.10 **(14)** (b) Except as provided in par. (c) and subject to par. (cm), liability
3 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
4 parent's minor child who has been placed by a court order under s. 48.355 or 48.357
5 in a residential, nonmedical facility such as a group home, foster home, treatment
6 foster home, subsidized guardianship home, or residential care center for children
7 and youth shall be determined by the court by using the percentage standard
8 established by the department of workforce development under s. 49.22 (9) and by
9 applying the percentage standard in the manner established by the department
10 under s. 46.247.

11 **SECTION 4.** 46.261 (1) (a) of the statutes is amended to read:

12 46.261 **(1)** (a) The child is living in a foster home or treatment foster home
13 licensed under s. 48.62 if a license is required under that section, in a foster home
14 or treatment foster home located within the boundaries of a federally recognized
15 American Indian reservation in this state and licensed by the tribal governing body
16 of the reservation, in a group home licensed under s. 48.625, in a subsidized
17 guardianship home under s. 48.62 (5), or in a residential care center for children and
18 youth licensed under s. 48.60, and has been placed in the foster home, treatment
19 foster home, group home, subsidized guardianship home, or center by a county
20 department under s. 46.215, 46.22, or 46.23, by the department, or by a federally
21 recognized American Indian tribal governing body in this state under an agreement
22 with a county department under s. 46.215, 46.22, or 46.23.

23 **SECTION 5.** 46.261 (2) (a) 1. of the statutes is amended to read:

24 46.261 **(2)** (a) 1. A nonrelative who cares for the dependent child in a foster
25 home or treatment foster home having a license under s. 48.62, in a foster home or

SENATE BILL 488**SECTION 5**

1 treatment foster home located within the boundaries of a federally recognized
2 American Indian reservation in this state and licensed by the tribal governing body
3 of the reservation or in a group home licensed under s. 48.625, a subsidized guardian
4 under s. 48.62 (5) who cares for the dependent child, or a minor custodial parent who
5 cares for the dependent child, regardless of the cause or prospective period of
6 dependency. The state shall reimburse counties pursuant to the procedure under s.
7 46.495 (2) and the percentage rate of participation set forth in s. 46.495 (1) (d) for aid
8 granted under this section except that if the child does not have legal settlement in
9 the granting county, state reimbursement shall be at 100%. The county department
10 under s. 46.215 or 46.22 or the department under s. 48.48 (17) shall determine the
11 legal settlement of the child. A child under one year of age shall be eligible for aid
12 under this subsection irrespective of any other residence requirement for eligibility
13 within this section.

14 **SECTION 6.** 46.261 (2) (a) 3. of the statutes is amended to read:

15 46.261 (2) (a) 3. A county or, in a county having a population of 500,000 or more,
16 the department, when the child is placed in a licensed foster home, treatment foster
17 home, group home, or residential care center for children and youth or in a subsidized
18 guardianship home by a licensed child welfare agency or by a federally recognized
19 American Indian tribal governing body in this state or by its designee, if the child is
20 in the legal custody of the county department under s. 46.215, 46.22, or 46.23 or the
21 department under s. 48.48 (17) or if the child was removed from the home of a
22 relative, as defined under s. 48.02 (15), as a result of a judicial determination that
23 continuance in the home of the relative would be contrary to the child's welfare for
24 any reason and the placement is made pursuant to an agreement with the county
25 department or the department.

SENATE BILL 488

1 **SECTION 7.** 46.261 (2) (a) 4. of the statutes is amended to read:

2 46.261 (2) (a) 4. A licensed foster home, treatment foster home, group home,
3 or residential care center for children and youth or a subsidized guardianship home
4 when the child is in the custody or guardianship of the state, when the child is a ward
5 of an American Indian tribal court in this state and the placement is made under an
6 agreement between the department and the tribal governing body, or when the child
7 was part of the state's direct service case load and was removed from the home of a
8 relative, as defined under s. 48.02 (15), as a result of a judicial determination that
9 continuance in the home of a relative would be contrary to the child's welfare for any
10 reason and the child is placed by the department.

11 **SECTION 8.** 46.261 (2) (b) of the statutes is amended to read:

12 46.261 (2) (b) Notwithstanding par. (a), aid under this section may not be
13 granted for placement of a child in a foster home or treatment foster home licensed
14 by a federally recognized American Indian tribal governing body, for placement of a
15 child in a foster home, treatment foster home, group home, subsidized guardianship
16 home, or residential care center for children and youth by a tribal governing body or
17 its designee, or for the placement of a child who is a ward of a tribal court if the tribal
18 governing body is receiving or is eligible to receive funds from the federal government
19 for that type of placement ~~or for placement of a child in a group home licensed under~~
20 s. 48.625.

21 ~~**SECTION 9.** 46.495 (1) (d) of the statutes is amended to read.~~

22 ~~46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b) and~~
23 ~~(o), the department shall distribute the funding for social services, including funding~~
24 ~~for foster care or, treatment foster care, or subsidized guardianship care of a child on~~
25 ~~whose behalf aid is received under s. 46.261, to county departments under ss. 46.215,~~

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SECTION 9

1 46.22, and 46.23 as provided under s. 46.40. County matching funds are required for
2 the distributions under s. 46.40 (2), (8), and (9) (b). Each county's required match for
3 the distributions under s. 46.40 (2) and (8) for a year equals 9.89% of the total of the
4 county's distributions under s. 46.40 (2) and (8) for that year for which matching
5 funds are required plus the amount the county was required by s. 46.26 (2) (c), 1985
6 stats., to spend for juvenile delinquency-related services from its distribution for
7 1987. Each county's required match for the distribution under s. 46.40 (9) (b) for a
8 year equals 9.89% of that county's amounts described in s. 46.40 (9) (a) (intro.) for
9 that year. Matching funds may be from county tax levies, federal and state revenue
10 sharing funds, or private donations to the county that meet the requirements
11 specified in s. 51.423 (5). Private donations may not exceed 25% of the total county
12 match. If the county match is less than the amount required to generate the full
13 amount of state and federal funds distributed for this period, the decrease in the
14 amount of state and federal funds equals the difference between the required and the
15 actual amount of county matching funds.

16 SECTION 10. 46.51 (4) of the statutes is amended to read:

17 46.51 (4) A county may use the funds distributed under this section to fund
18 additional foster parents and, treatment foster parents, and subsidized guardians
19 to care for abused and neglected children and to fund additional staff positions to
20 provide services related to child abuse and neglect and to unborn child abuse.

21 SECTION 11. 48.33 (4) (intro.) of the statutes is amended to read:

22 48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
23 placement of an adult expectant mother outside of her home shall be in writing. A
24 report recommending placement of a child in a foster home, treatment foster home,
25 group home, or residential care center for children and youth or, in the home of a

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1 relative other than a parent, ^a or in the home of the child's guardian under s. 48.977

2 (2) shall be in writing and shall include all of the following:

3 SECTION 12. 48.345 (3) (c) of the statutes is amended to read: ^a

4 48.345 (3) (c) A foster home or treatment foster home licensed under s. 48.62

5 ~~or~~ a group home licensed under s. 48.625, ^a or in the home of the child's guardian under
6 s. 48.977 (2).

7 SECTION 13. 48.356 (1) of the statutes is amended to read:

8 48.356 (1) Whenever the court orders a child to be placed outside his or her
9 home, orders an expectant mother of an unborn child to be placed outside of her
10 home, or denies a parent visitation because the child or unborn child has been
11 adjudged to be in need of protection or services under s. 48.345, 48.347, 48.357,
12 48.363, or 48.365 or whenever the court appoints a guardian for a child under s.
13 48.977 (2), the court shall orally inform the parent or parents who appear in court
14 or the expectant mother who appears in court of any grounds for termination of
15 parental rights under s. 48.415 ~~which~~ that may be applicable and of the conditions
16 necessary for the child or expectant mother to be returned to the home or for the
17 parent to be granted visitation.

18 SECTION 14. 48.425 (1) (g) of the statutes is amended to read:

19 48.425 (1) (g) If an agency designated under s. 48.427 (3m) (a) 1. to 4.
20 determines that it is unlikely that the child will be adopted, or if adoption would not
21 be in the best interests of the child, the report shall include a plan for placing the child
22 in a permanent family setting. The plan shall include a recommendation as to the
23 agency to be named guardian of the child ² ~~or~~ a recommendation that the person
24 appointed as the guardian of the child under s. 48.977 (2) continue to be the guardian
25 of the child ~~or that a guardian be appointed for the child under s. 48.977 (2).~~

^e a recommendation

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SECTION 15

1 **SECTION 15.** 48.427 (3m) (intro.) of the statutes is amended to read:

2 48.427 **(3m)** (intro.) If the rights of both parents or of the only living parent are
3 terminated under sub. (3) and if a guardian has not been appointed under s. 48.977,
4 the court shall ~~either~~ do one of the following:

5 **SECTION 16.** 48.427 (3m) (c) of the statutes is created to read:

6 48.427 **(3m)** (c) Appoint a guardian under s. 48.977 and transfer guardianship
7 and custody of the child to the guardian.

8 **SECTION 17.** 48.427 (3p) of the statutes is amended to read:

9 48.427 **(3p)** If the rights of both parents or of the only living parent are
10 terminated under sub. (3) and if a guardian has been appointed under s. 48.977, the
11 court may enter one of the orders specified in sub. (3m) (a) or (b). If the court enters
12 an order under this subsection, the court shall terminate the guardianship under s.
13 48.977.

14 **SECTION 18.** 48.48 (17) (a) 3. of the statutes is amended to read:

15 48.48 **(17)** (a) 3. Provide appropriate protection and services for children and
16 the expectant mothers of unborn children in its care, including providing services for
17 those children and their families and for those expectant mothers in their own
18 homes, placing the children in licensed foster homes, treatment foster homes, or
19 group homes in this state or another state within a reasonable proximity to the
20 agency with legal custody, placing the children in the homes of the children's
21 guardians under s. 48.977 (2), or contracting for services for those children by
22 licensed child welfare agencies, except that the department may not purchase the
23 educational component of private day treatment programs unless the department,
24 the school board, as defined in s. 115.001 (7), and the state superintendent of public
25 instruction all determine that an appropriate public education program is not

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1 available. Disputes between the department and the school district shall be resolved
2 by the state superintendent of public instruction.

3 **SECTION 19.** 48.48 (17) (c) 4. of the statutes is amended to read:

4 48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home,
5 or residential care center for children and youth or in the home of a subsidized
6 guardian under s. 48.62 (5).

7 **SECTION 20.** 48.57 (1) (c) of the statutes is amended to read:

8 48.57 (1) (c) To provide appropriate protection and services for children and the
9 expectant mothers of unborn children in its care, including providing services for
10 those children and their families and for those expectant mothers in their own
11 homes, placing those children in licensed foster homes, treatment foster homes, or
12 group homes in this state or another state within a reasonable proximity to the
13 agency with legal custody, placing those children in the homes of the children's
14 guardians under s. 48.977 (2), or contracting for services for those children by
15 licensed child welfare agencies, except that the county department may not purchase
16 the educational component of private day treatment programs unless the county
17 department, the school board, as defined in s. 115.001 (7), and the state
18 superintendent of public instruction all determine that an appropriate public
19 education program is not available. Disputes between the county department and
20 the school district shall be resolved by the state superintendent of public instruction.

21 **SECTION 21.** 48.57 (3) (a) 4. of the statutes is amended to read:

22 48.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home,
23 or residential care center for children and youth or is living in the home of a
24 subsidized guardian under s. 48.62 (5).

25 **SECTION 22.** 48.57 (3m) (cm) of the statutes is amended to read:

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SECTION 22

1 48.57 (3m) (cm) A kinship care relative who receives a payment under par. (am)
2 for providing care and maintenance for a child is not eligible to receive a payment
3 under sub. (3n) or s. 48.62 (4) or (5) for that child.

4 **SECTION 23.** 48.57 (3n) (cm) of the statutes is amended to read:

5 48.57 (3n) (cm) A long-term kinship care relative who receives a payment
6 under par. (am) for providing care and maintenance for a child is not eligible to
7 receive a payment under sub. (3m) or s. 48.62 (4) or (5) for that child.

8 **SECTION 24.** 48.61 (3) of the statutes is amended to read:

9 48.61 (3) To provide appropriate care and training for children in its legal or
10 physical custody and, if licensed to do so, to place children in licensed foster homes,
11 licensed treatment foster homes, and licensed group homes and in the homes of the
12 ~~children's~~ guardians under s. 48.977 (2).

13 **SECTION 25.** 48.615 (1) (b) of the statutes is amended to read:

14 48.615 (1) (b) Before the department may issue a license under s. 48.60 (1) to
15 a child welfare agency that places children in licensed foster homes, licensed
16 treatment foster homes, and licensed group homes and in the homes of the children's
17 guardians under s. 48.977 (2), the child welfare agency must pay to the department
18 a biennial fee of \$254.10.

19 **SECTION 26.** 48.62 (5) of the statutes is created to read:

20 48.62 (5) (a) Subject to par. (b), a county department or, in a county having a
21 population of 500,000 or more, the department shall provide monthly subsidized
22 guardianship payments in the amount specified in par. (c) to a guardian of a child
23 under s. 48.977 (2) who was licensed as the child's foster parent or treatment foster
24 parent before the guardianship appointment and who has entered into a subsidized

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1 guardianship agreement with the county department or department if the child
2 meets any of the following conditions:

3 1. The child has been placed outside of his or her home, as described in s. 48.365
4 (1), for a cumulative total period of one year or longer, the court has found under s.
5 48.977 (2) (f) that the agency primarily responsible for providing services to the child
6 under a court order has made reasonable efforts to make it possible for the child to
7 return to his or her home, while assuring that the child's health and safety are the
8 paramount concerns, but that reunification of the child with the child's parent or
9 parents is unlikely or contrary to the best interests of the child and that further
10 reunification efforts are unlikely to be made or are contrary to the best interests of
11 the child, or that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. apply,
12 and the court has found under s. 48.977 (4) (h) 2. that appointment of a guardian for
13 the child is in the best interests of the child.

14 2. The child does not meet the conditions specified in subd. 1., but the county
15 department or department has determined, and the court has confirmed under s.
16 48.977 (3r), that appointing a guardian for the child under s. 48.977 (2) and providing
17 monthly subsidized guardianship payments to the guardian are in the best interests
18 of the child.

19 (b) The department shall request from the secretary of the federal department
20 of health and human services a waiver of the requirements under 42 USC 670 to 679a
21 that would authorize the state to receive federal foster care and adoption assistance
22 reimbursement under 42 USC 670 to 679a for the costs of providing care for a child
23 who is in the care of a guardian who was licensed as the child's foster parent or
24 treatment foster parent before the guardianship appointment and who has entered
25 into a subsidized guardianship agreement with the county department or

SENATE BILL 488**SECTION 26**

1 department. If the waiver is approved for a county having a population of 500,000
2 or more, the department shall provide the monthly payments under par. (a) from the
3 appropriations under s. 20.435 (3) (cx), (gx), (kw), and (mx). If the waiver is approved
4 for any other county, the department shall determine which counties are authorized
5 to provide monthly payments under par. (a), and the county departments of those
6 counties shall provide those payments from moneys received under s. 46.495 (1) (d).

7 (c) The amount of a monthly payment under par. (a) for the care of a child shall
8 equal the amount received under sub. (4) by the guardian of the child for the month
9 immediately preceding the month in which the guardianship order was granted. A
10 guardian who receives a monthly payment under par. (a) is not eligible to receive a
11 payment under sub. (4) or s. 48.57 (3m) or (3n).

12 **SECTION 27.** 48.977 (title) of the statutes is amended to read:

13 **48.977 (title) Appointment of ~~relatives as~~ guardians for certain**
14 **children in need of protection or services.**

15 **SECTION 28.** 48.977 (1) of the statutes is repealed.

16 **SECTION 29.** 48.977 (2) (intro.) of the statutes is amended to read:

17 **48.977 (2) TYPE OF GUARDIANSHIP.** (intro.) This section may be used for the
18 appointment of a ~~relative of a child as a~~ guardian of the person for the a child if the
19 court finds all of the following:

20 **SECTION 30.** 48.977 (2) (a) of the statutes is amended to read:

21 **48.977 (2) (a)** That the child has been adjudged to be in need of protection or
22 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or
23 938.13 (4) and been placed, or continued in a placement, outside of his or her home
24 pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,
25 938.345, 938.357, 938.363, or 938.365 ~~for a cumulative total period of one year or~~

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1 ~~longer or that the child has been so adjudged and placement of the child in the home~~
2 ~~of a guardian under this section has been recommended under s. 48.33 (1) or 938.33~~
3 ~~(1).~~

4 SECTION 31. 48.977 (2) (b) of the statutes is amended to read:

5 48.977 (2) (b) That the person nominated as the guardian of the child is a
6 ~~relative of the child~~ person with whom the child has been placed or in whose home
7 placement of the child is recommended under par. (a) and that it is likely that the
8 child will continue to be placed with that ~~relative~~ person for an extended period of
9 time or until the child attains the age of 18 years.

10 SECTION 32. 48.977 (2) (c) of the statutes is amended to read:

11 48.977 (2) (c) That, if appointed, it is likely that the ~~relative~~ person would be
12 willing and able to serve as the child's guardian for an extended period of time or until
13 the child attains the age of 18 years.

14 SECTION 33. 48.977 (2) (f) of the statutes is amended to read:

15 48.977 (2) (f) That the agency primarily responsible for providing services to
16 the child under a court order has made reasonable efforts to make it possible for the
17 child to return to his or her home, while assuring that the child's health and safety
18 are the paramount concerns, but that reunification of the child with the child's
19 parent or parents is unlikely or contrary to the best interests of the child and that
20 further reunification efforts are unlikely to be made or are contrary to the best
21 interests of the child or that the agency primarily responsible for providing services
22 to the child under a court order has made reasonable efforts to prevent the removal
23 of the child from his or her home, while assuring the child's health and safety, but that
24 continued placement of the child in the home would be contrary to the welfare of the
25 child, except that the court is not required to find that the agency has made those

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1 reasonable efforts with respect to a parent of the child if any of the circumstances
2 specified in s. 48.355 (2d) (b) 1. to 5. applies to that parent. The court shall make the
3 findings specified in this paragraph on a case-by-case basis based on circumstances
4 specific to the child and shall document or reference the specific information on
5 which those findings are based in the guardianship order. A guardianship order that
6 merely references this paragraph without documenting or referencing that specific
7 information in the order or an amended guardianship order that retroactively
8 corrects an earlier guardianship order that does not comply with this paragraph is
9 not sufficient to comply with this paragraph.

10 **SECTION 34.** 48.977 (3r) of the statutes is created to read:

11 48.977 (3r) SUBSIDIZED GUARDIANSHIP. Subject to s. 48.62 (5) (b), if a county
12 department or, in a county having a population of 500,000 or more, the department
13 has determined under s. 48.62 (5) (a) 2. that appointing a guardian under sub. (2) for
14 a child who does not meet the conditions specified under s. 48.62 (5) (a) 1. and
15 providing monthly subsidized guardianship payments to the guardian are in the best
16 interests of the child, the petitioner under sub. (4) (a) shall include in the petition
17 under sub. (4) (b) a statement of that determination and a request for the court to
18 include in the court's findings under sub. (4) (d) a finding confirming that
19 determination. If the court confirms that determination and appoints a guardian for
20 the child under sub. (2), the county department or department shall provide monthly
21 subsidized guardianship payments to the guardian under s. 48.62 (5).

22 **SECTION 35.** 48.977 (4) (a) 4. of the statutes is amended to read:

23 48.977 (4) (a) 4. The ~~relative person~~ with whom the child is placed or in whose
24 home placement of the child is recommended as described in sub. (2) (a). if the
25 relative person is nominated as the guardian of the child in the petition.

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1 **SECTION 36.** 48.977 (4) (a) 6. of the statutes is amended to read:

2 48.977 (4) (a) 6. A county department under s. 46.22 or 46.23 or, if the child has
3 been placed pursuant to an order under ch. 938 or the child's placement with the
4 guardian is recommended under ch. 938, a county department under s. 46.215, 46.22,
5 or 46.23.

6 **SECTION 37.** 48.977 (4) (b) 3. of the statutes is amended to read:

7 48.977 (4) (b) 3. The date, ^{on which (use 2x)✓} the child was adjudged in need of protection or
8 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or
9 938.13 (4) and the dates ~~that~~ the child has been placed, or continued in a placement,
10 outside of his or her home pursuant to one or more court orders under s. 48.345,
11 48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365 or, if the child has been
12 so adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1)
13 in which placement of the child in the home of the person is recommended.

14 **SECTION 38.** 48.977 (4) (c) 1. g. of the statutes is amended to read:

15 48.977 (4) (c) 1. g. The ~~relative~~ person with whom the child is placed or in whose
16 home placement of the child is recommended as described in sub. (2) (a), if the
17 relative person is nominated as the guardian of the child in the petition.

18 **SECTION 39.** 48.977 (4) (e) of the statutes is amended to read:

19 48.977 (4) (e) *Court report.* The For a child who has been placed, or continued
20 in a placement, outside of his or her home for 6 months or longer, the court shall order
21 the person or agency primarily responsible for providing services to the child under
22 a court order to file with the court a report containing the written summary under
23 s. 48.38 (5) (e) and as much information relating to the appointment of a guardian
24 as is reasonably ascertainable. For a child who has been placed, or continued in a
25 placement, outside of his or her home for less than 6 months, the court shall order

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1 the person or agency primarily responsible for providing services to the child under
2 a court order to file with the court the report submitted under s. 48.33 (1) or 938.33
3 (1), the permanency plan prepared under s. 48.38 or 938.38, if one has been prepared,
4 and as much information relating to the appointment of a guardian as is reasonably
5 ascertainable. The agency shall file the report at least 48 hours before the date of
6 the dispositional hearing under par. (fm).

7 **SECTION 40.** 48.977 (4) (g) 1. of the statutes is amended to read:

8 48.977 (4) (g) 1. Whether the ~~relative~~ person would be a suitable guardian of
9 the child.

10 **SECTION 41.** 48.977 (4) (g) 2. of the statutes is amended to read:

11 48.977 (4) (g) 2. The willingness and ability of the ~~relative~~ person to serve as
12 the child's guardian for an extended period of time or until the child attains the age
13 of 18 years.

14 **SECTION 42.** 48.977 (4) (h) 1. of the statutes is amended to read:

15 48.977 (4) (h) 1. A disposition dismissing the petition if the court determines
16 that appointment of the ~~relative~~ person as the child's guardian is not in the best
17 interests of the child.

18 **SECTION 43.** 48.977 (4) (h) 2. of the statutes is amended to read:

19 48.977 (4) (h) 2. A disposition ordering that the ~~relative~~ person with whom the
20 child has been placed or in whose home placement of the child is recommended as
21 described in sub. (2) (a) be appointed as the child's guardian under sub. (5) (a) or
22 limited guardian under sub. (5) (b), if the court determines that such an appointment
23 is in the best interests of the child.

24 **SECTION 44.** 49.155 (1m) (a) 1m. b. of the statutes is amended to read:

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1 49.155 (1m) (a) 1m. b. The individual has not yet attained the age of 18 years
2 and the individual resides with his or her custodial parent or with a kinship care
3 relative under s. 48.57 (3m) or with a long-term kinship care relative under s. 48.57
4 (3n) or is in a foster home or treatment foster home licensed under s. 48.62, a
5 subsidized guardianship home under s. 48.62 (5), a group home, or an independent
6 living arrangement supervised by an adult.

7 **SECTION 45.** 49.155 (1m) (bm) of the statutes is amended to read:

8 49.155 (1m) (bm) If the individual is providing care for a child under a court
9 order and is receiving payments on behalf of the child under s. 48.57 (3m) or (3n) or
10 48.62 (5), or if the individual is a foster parent or treatment foster parent, and child
11 care is needed for that child, the individual meets the requirement under s. 49.145
12 (2) (c).

13 **SECTION 46.** 49.155 (1m) (c) 1g. of the statutes is amended to read:

14 49.155 (1m) (c) 1g. If the individual is a foster parent of the child or a subsidized
15 guardian of the child under s. 48.62 (5), the child's biological or adoptive family has
16 a gross income that is at or below 200% of the poverty line. In calculating the gross
17 income of the child's biological or adoptive family, the Wisconsin works agency shall
18 include income described under s. 49.145 (3) (b) 1. and 3.

19 **SECTION 47.** 49.46 (1) (a) 5. of the statutes is amended to read:

20 49.46 (1) (a) 5. Any child in an adoption assistance, foster care, kinship care,
21 long-term kinship care ~~or~~, treatment foster care, or subsidized guardianship
22 placement under ch. 48 or 938, as determined by the department.

23 **SECTION 48.** 767.078 (1) (a) 2. of the statutes is amended to read:

24 767.078 (1) (a) 2. The child's right to support is assigned to the state under s.

25 ~~46.261~~ 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b.

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1 **SECTION 49.** 767.29 (1m) (c) of the statutes is amended to read:

2 767.29 **(1m)** (c) The party entitled to the support or maintenance money or a
3 minor child of the party has applied for or is receiving ~~aid to families with dependent~~
4 ~~children~~ aid under s. 46.261 or public assistance under ch. 49 and there is an
5 assignment to the state under s. 46.261 ~~or 49.19~~ (4) (h) 1. b. of the party's right to the
6 support or maintenance money. (3)

7 **SECTION 50.** 767.29 (2) of the statutes is amended to read:

8 767.29 **(2)** If any party entitled to maintenance payments or support money,
9 or both, is receiving public assistance under ch. 49, the party may assign the party's
10 right thereto to the county department under s. 46.215, 46.22, or 46.23 granting such
11 assistance. Such assignment shall be approved by order of the court granting the
12 maintenance payments or support money, and may be terminated in like manner;
13 except that it shall not be terminated in cases where there is any delinquency in the
14 amount of maintenance payments and support money previously ordered or
15 adjudged to be paid to the assignee without the written consent of the assignee or
16 upon notice to the assignee and hearing. When an assignment of maintenance
17 payments or support money, or both, has been approved by the order, the assignee
18 shall be deemed a real party in interest within s. 803.01 but solely for the purpose
19 of securing payment of unpaid maintenance payments or support money adjudged
20 or ordered to be paid, by participating in proceedings to secure the payment thereof.
21 Notwithstanding assignment under this subsection, and without further order of the
22 court, the department or its designee, upon receiving notice that a party or a minor
23 child of the parties is receiving aid under s. 46.261 or public assistance under ch. 49
24 or that a kinship care relative or long-term kinship care relative of the minor child
25 is receiving kinship care payments or long-term kinship care payments for the minor

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- (1) child, shall forward all support assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) 1., or 49.45 (19) to the assignee under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) 1., or 49.45 (19).

SECTION 51. 767.29 (4) of the statutes is amended to read:

- 767.29 (4) If an order or judgment providing for the support of one or more children not receiving aid under s. 46.261, 48.57 (3m) or (3n), or 49.19 includes support for a minor who is the beneficiary of aid under s. 46.261, 48.57 (3m) or (3n), or 49.19, any support payment made under the order or judgment is assigned to the state under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b. in the amount that is the proportionate share of the minor receiving aid under s. 46.261, 48.57 (3m) or (3n), or 49.19, except as otherwise ordered by the court on the motion of a party.

SECTION 52. 938.33 (4) (intro.) of the statutes is amended to read:

- 938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending placement in a foster home, treatment foster home, group home, or nonsecured residential care center for children and youth or, in the home of a relative other than a parent, or in the home of ^athe juvenile's guardian under s. 48.977 (2) shall be in writing, except that the report may be presented orally at the dispositional hearing if all parties consent. A report that is presented orally shall be transcribed and made a part of the court record. The report shall include all of the following:

SECTION 53. 938.345 (4) of the statutes is created to read:

- 938.345 (4) If the court finds that a juvenile is in need of protection or services under s. 938.13 (4), the court, instead of or in addition to any other disposition imposed under sub. (1), may place the juvenile in the home of ^athe juvenile's guardian under s. 48.977 (2).

SECTION 54. 938.57 (1) (c) of the statutes is amended to read:

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SECTION 54

1 938.57 (1) (c) Provide appropriate protection and services for juveniles in its
2 care, including providing services for juveniles and their families in their own homes,
3 placing the juveniles in licensed foster homes, licensed treatment foster homes, or
4 licensed group homes in this state or another state within a reasonable proximity to
5 the agency with legal custody, placing the juveniles in the homes of the juveniles'
6 guardians under s. 48.977 (2), or contracting for services for them by licensed child
7 welfare agencies or replacing them in secured correctional facilities, secured child
8 caring institutions, or secured group homes in accordance with rules promulgated
9 under ch. 227, except that the county department may not purchase the educational
10 component of private day treatment programs unless the county department, the
11 school board, as defined in s. 115.001 (7), and the state superintendent of public
12 instruction all determine that an appropriate public education program is not
13 available. Disputes between the county department and the school district shall be
14 resolved by the state superintendent of public instruction.

15 SECTION 55. 938.57 (3) (a) 4. of the statutes is amended to read:

16 938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home,
17 or residential care center for children and youth or in the home of a subsidized
18 guardian under s. 48.62 (5). (B) 9/21 health and family services

19 SECTION 56. Nonstatutory provisions.

20 (1) RELATIVE GUARDIANSHIPS. Notwithstanding section 48.977 (2) (a), 2003
21 stats., a petition under section 48.977 (4) of the statutes, as affected by this act, may
22 be filed for the appointment of a relative as the guardian of the person of a child who
23 has been placed, or continued in a placement, outside of his or her home for less than
24 one year on the effective date of this subsection.

(END)

25

Insert

22-24

Insert 4-9

Section #. 20.435 (7) (b) of the statutes is amended to read:

20.435 (7) (b) *Community aids and Medical Assistance payments.* The amounts in the schedule ^{and subsidized guardianship} _{care} for human services under s. 46.40, to fund services provided by resource centers under s. 46.283 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, for foster care ~~and treatment foster care~~ ^{ss. 46.261} under s. 49.19 (10), for Medical Assistance payment adjustments under s. 49.45 (52), for Medical Assistance payments under s. 49.45 (53), and for payments under SECTION 25 (3). Social services disbursements under s. 46.03 (20) (b) may be made from this appropriation. Refunds received relating to payments made under s. 46.03 (20) (b) for the provision of services for which moneys are appropriated under this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department of health and family services may transfer funds between fiscal years under this paragraph. The department shall deposit into this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior year audit adjustments including those resulting from audits of services under s. 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all funds allocated under s. 46.40 and not spent or encumbered by December 31 of each year shall lapse to the general fund on the succeeding January 1 unless carried forward to the next calendar year by the joint committee on finance.

NOTE: Par. (b) is amended eff. 1-1-06 by 2003 Wis. Act 318 to read:

~~(b) *Community aids.* The amounts in the schedule for human services under s. 46.40, to fund services provided by resource centers under s. 46.283 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, and for foster care and treatment foster care under s. 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be made from this appropriation. Refunds received relating to payments made under s. 46.03 (20) (b) for the provision of services for which mon-~~

as affected by 2003 Wisconsin Act 318, section 6, and 2005 Wisconsin Act 111 (this act)

Insert 4-9

Section #. 20.435 (7) (b) of the statutes is amended to read:

Please fix comp.

A.R.D.

repealed and recreated

~~20.435 (7) (b) Community aids and Medical Assistance payments. The amounts in the schedule for human services under s. 46.40, to fund services provided by resource centers under s. 46.283 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, for foster care and treatment foster care under s. 49.19 (10), for Medical Assistance payment adjustments under s. 49.45 (52), for Medical Assistance payments under s. 49.45 (53), and for payments under SECTION 25 (3). Social services disbursements under s. 46.03 (20) (b) may be made from this appropriation. Refunds received relating to payments made under s. 46.03 (20) (b) for the provision of services for which moneys are appropriated under this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department of health and family services may transfer funds between fiscal years under this paragraph. The department shall deposit into this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior year audit adjustments including those resulting from audits of services under s. 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all funds allocated under s. 46.40 and not spent or encumbered by December 31 of each year shall lapse to the general fund on the succeeding January 1 unless carried forward to the next calendar year by the joint committee on finance.~~

NOTE: Part (b) is amended eff. 1-1-06 by 2003 Wis. Act 318 to read:

(b) Community aids. The amounts in the schedule for human services under s. 46.40, to fund services provided by resource centers under s. 46.283 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, and for foster care and treatment foster care under s. 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be made from this appropriation. Refunds received relating to payments made under s. 46.03 (20) (b) for the provision of services for which mon-

plain and subsidized guardianship care

35 416.261 and
plain text

LPS: Please fix font.

Insert 4-9]

ys are appropriated under this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department of health and family services may transfer funds between fiscal years under this paragraph. The department shall deposit into this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior year audit adjustments including those resulting from audits of services under s. 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all funds allocated under s. 46.40 and not spent or encumbered by December 31 of each year shall lapse to the general fund on the succeeding January 1 unless carried forward to the next calendar year by the joint committee on finance.

~~History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.~~

(end insert)

Insert 8-15

Section #. 46.495 (1) (d) of the statutes is amended to read:

, or subsidized guardianship care

46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b) and (o), the department shall distribute the funding for social services, including funding for foster care ~~or treatment foster care~~ of a child on whose behalf aid is received under s. 46.261, to county departments under ss. 46.215, 46.22, and 46.23 as provided under s. 46.40. County matching funds are required for the distributions under s. 46.40 (2), (8), and (9) (b). Each county's required match for the distribution under s. 46.40 (2) shall be specified in a schedule established annually by the department of health and family services. Each county's required match for the distribution under s. 46.40 (8) for a year equals 9.89% of the total of the county's distributions under s. 46.40 (8) for that year for which matching funds are required plus the amount the county was required by s. 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from its distribution for 1987. Each county's required match for the distribution under s. 46.40 (9) (b) for a year equals 9.89% of that county's amounts described in s. 46.40 (9) (a) (intro.) for that year. Matching funds may be from county tax levies, federal and state revenue sharing funds, or private donations to the county that meet the requirements specified in s. 51.423 (5). Private donations may not exceed 25% of the total county match. If the county match is less than the amount required to generate the full amount of state and federal funds distributed for this period, the decrease in the amount of state and federal funds equals the difference between the required and the actual amount of county matching funds.

NOTE: Par. (d) is amended eff. 1-1-06 by 2003 Wis. Act 318 to read:

~~(d) From the appropriations under s. 20.435 (3) (o) and (7) (b) and (o), the department shall distribute the funding for social services, including funding for foster care or treatment foster care of a child on whose behalf aid is received under s. 46.261, to county departments under ss. 46.215, 46.22, and 46.23 as provided under s. 46.40. County matching funds are required for the distributions under s. 46.40 (2), (8), and (9) (b). Each county's required match for the distributions under s. 46.40 (2) and (8) for a year equals 9.89% of the total of the county's distributions under s. 46.40 (2) and (8) for that year for which matching funds are required plus the amount the county was required by s. 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from its~~

[Insert 8-15]

was affected by 2003 Wisconsin Act 318, section 13, and
2005 Wisconsin Act 111 (this act),

Section #. 46.495 (1) (d) of the statutes is amended to read:

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repealed and recreated

~~46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b) and (o), the department shall distribute the funding for social services, including funding for foster care or treatment foster care of a child on whose behalf aid is received under s. 46.261, to county departments under ss. 46.215, 46.22, and 46.23 as provided under s. 46.40. County matching funds are required for the distributions under s. 46.40 (2), (8), and (9) (b). Each county's required match for the distribution under s. 46.40 (2) shall be specified in a schedule established annually by the department of health and family services. Each county's required match for the distribution under s. 46.40 (8) for a year equals 9.89% of the total of the county's distributions under s. 46.40 (8) for that year for which matching funds are required plus the amount the county was required by s. 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from its distribution for 1987. Each county's required match for the distribution under s. 46.40 (9) (b) for a year equals 9.89% of that county's amounts described in s. 46.40 (9) (a) (intro.) for that year. Matching funds may be from county tax levies, federal and state revenue sharing funds, or private donations to the county that meet the requirements specified in s. 51.423 (5). Private donations may not exceed 25% of the total county match. If the county match is less than the amount required to generate the full amount of state and federal funds distributed for this period, the decrease in the amount of state and federal funds equals the difference between the required and the actual amount of county matching funds~~

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or subsidized guardianship care

(d) From the appropriations under s. 20.435 (3) (o) and (7) (b) and (o), the department shall distribute the funding for social services, including funding for foster care or treatment foster care of a child on whose behalf aid is received under s. 46.261, to county departments under ss. 46.215, 46.22, and 46.23 as provided under s. 46.40. County matching funds are required for the distributions under s. 46.40 (2), (8), and (9) (b). Each county's required match for the distributions under s. 46.40 (2) and (8) for a year equals 9.89% of the total of the county's distributions under s. 46.40 (2) and (8) for that year for which matching funds are required plus the amount the county was required by s. 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from its

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distribution for 1987. Each county's required match for the distribution under s. 46.40 (9) (b) for a year equals 9.89% of that county's amounts described in s. 46.40 (9) (a) (intro.) for that year. Matching funds may be from county tax levies, federal and state revenue sharing funds, or private donations to the county that meet the requirements specified in s. 51.423 (5). Private donations may not exceed 25% of the total county match. If the county match is less than the amount required to generate the full amount of state and federal funds distributed for this period, the decrease in the amount of state and federal funds equals the difference between the required and the actual amount of county matching funds.

History: 1995 a. 27 ss. 3129, 3132, 3135 to 3139; 1995 a. 289, 404; 1997 a. 3, 27, 252; 1999 a. 9; 2001 a. 16; 2003 a. 318.

(Certified)

2003

Insert 22-24

Nonstat File Sequence:

FFF

LRB _____ / _____

_____:_____:_____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # ____ . Effective date.

(#1) () This act takes effect
on

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # ____ . Effective dates;

..... This act takes effect on the day after publication, except as follows:

(#1) () The treatment of
sections
of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute: ... **create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the **9400** department code.

SECTION 94 21[✓] . Effective dates;

.....
(#1) ⁽²⁾ SUBSIDIZED GUARDIANSHIP... The treatment of
sections 20435 (7)(b) (A) SECTION 490 and 46495 (1)(2) (A) SECTION 490
of the statutes takes effect on January 1, 2006

Ced & ss-1)

Malaise, Gordon

From: Rhodes, Dennis
Sent: Monday, January 03, 2005 9:42 AM
To: Malaise, Gordon
Subject: FW: Subsidized Guardianship Statutory Language



Modifications to
Legislative P...

Gordon,

DHFS has, now, comeback with comments on the Subsidized Guardianship draft. Do any of these raise problems in your opinion?

Thanks again,

Dennis

-----Original Message-----

From: Groth, Nicole
Sent: Monday, January 03, 2005 9:34 AM
To: Rhodes, Dennis
Subject: Subsidized Guardianship Statutory Language

Dennis,
Attached are comments from DCFS staff regarding the subsidized guardianship legislation to be forwarded to LRB.
Thanks,
Nicole

MODIFICATIONS TO SUBSIDIZED GUARDIANSHIP LEGISLATIVE PROPOSAL

Statement of Issue

The Department has received a Title IV-E waiver from the federal government to operate a subsidized guardianship program, beginning in Milwaukee County. State legislation is necessary to implement the program and the subsidized guardianships must be made pursuant to the requirements of s. 48.977, Wis. Stats. LRB draft 05-0084/1 is based on Senate Bill 488 from the 2003-2004 legislative session.

Modifications are necessary to the bill draft to address five issues.

1. To recognize tribal guardianships awarded to persons by a tribal court as defined under tribal law which are similar to s. 48.977 guardianships. This will address situations of Indian children in Milwaukee County who are under the jurisdiction of one of the eleven federally-recognized Indian tribes, bands, or communities in Wisconsin.
guardians appt'd by tribal cts
2. To recognize guardianships awarded to persons by courts in other states as defined under the law in those states which are similar to s. 48.977 guardianships. This will address situations of children placed with caregivers in other states where it is more practical for the caretaker to obtain a guardianship order in his/her home state.
guardians appt'd by cts of other states
3. To establish eligibility criteria for persons to receive subsidized guardianship payments on an interim basis following the death or incapacitation of the original guardian. The federal waiver allows guardianship payments to be made for up to 12 months to approved interim caretakers to avoid having to take children receiving subsidized guardianship payments back into foster care. Guardians will be encouraged to identify interim caretakers for this purpose. Interim caretakers should be required to pass a criminal background check and a safety assessment, similar to the kinship care program, to receive payments.
Interim caretakers
 - death or incapacity of guardian
 - eligibility criteria
 - Guardian nominate
 - Background check
4. During the interim payment period, the Department or county child welfare departments will work with the interim caretaker or other persons to find a permanent placement for the child. If the child previously met the eligibility criteria for subsidized guardianship, there should be authority for the new caretaker to seek guardianship under s. 48.977 or equivalent tribal or other state law and receive the subsidized guardianship payment. Essentially the new caretaker should be able to seek subsidized guardianship if approved by the Department/county departments without having to establish a CHIPS order for the child first.
Appointment of interim caretaker as guardian
5. The federal waiver specifies that participation in the subsidized guardianship program should not deprive children of other federal benefits, including adoption assistance. Subsidized guardians and new caretakers may decide to pursue adoption. In this situation, if the child meets the special needs criteria for adoption assistance under Administrative Rule Chapter HFS 50, the child should be eligible for adoption assistance under s. 48.975. This will allow guardians to receive adoption assistance if they subsequently adopt and new caretakers to seek adoption assistance if the adoption is approved.
Allow adoption assistance if subsequently adopt

Why?
child will
have had
CHIPS
order - if laws
personally met
criteria

Proposed Modifications

- ✓ Amend the language in s. 48.977(2)(intro) to recognize the authority of tribal courts and courts in other states to award guardianships law that would qualify the guardian for the subsidized guardianship program.

**Department of Health and Family Services
Division of Children and Family Services**

Note: The changes to s. 48.977(2)(intro.) shown in italics are already included in LRB 05-0084/1.

(2)(intro.) TYPE OF GUARDIANSHIP. This section may be used for the appointment of a ~~relative of a child as a~~ guardian of the person for ~~the~~ a child if the court, or a tribal court or court in another state acting in accordance with procedures that are substantially equivalent to the procedures specified in this section, finds all of the following:

Create language under the proposed s. 48.62(5) to authorize interim payments and establish eligibility criteria for interim caretakers.

- ✍ Interim payments equal to the subsidized guardianship payment for the child should be allowed for a period of up to 12 months to a person caring for the child following the termination of the subsidized guardianship death to death, incapacitation or withdrawal of the guardian.
- ✍ To receive an interim payment, a person must pass a criminal background check and complete a safety assessment conducted by the Department/county department or agency approved by the Department/county department. The criminal background and safety assessment requirements can be based on the requirements applicable to the kinship care program under s. 48.57.
- ✍ Like kinship care, persons should not be able to do a Chapter 227 appeal of the denial of payment if they do not pass the criminal background check.
- ✍ To continue receiving payments, the caretaker must cooperate with efforts by the Department/county department to find a permanent placement for the child.

(No) Create language in s.48.977 to allow persons approved by the Department/county department to seek a s. 48.977 guardianship for a child who was previously approved for subsidized guardianship. This authority should apply to Wisconsin guardianships under s. 48.977, tribal guardianships and guardianships in other states.

Why?
May seek
g' ship now

Note: The Department considered the possibility of recognizing Chapter 880 guardianships for a new caretaker seeking subsidized guardianship. It is preferable to keep all aspects of the subsidized guardianship program under s. 48.977.

✓ Amend the language under s. 48.975(3)(a)1 to allow children in subsidized guardianship to qualify for adoption assistance.

48.975(3)(a)1. Except as provided in subd. 3., for support of a child who was in foster care, ~~or~~ treatment foster care or subsidized guardianship immediately prior to placement for adoption, the initial amount of adoption assistance for maintenance shall be equivalent to the amount of that child's foster care, ~~or~~ treatment foster care or subsidized guardianship payment at the time that the agreement under sub. (4) (a) is signed or a lesser amount if agreed to by the proposed adoptive parents and specified in that agreement.

Contact Persons:

Mark Mitchell or John Tuohy

Malaise, Gordon

From: Tuohy, John
Sent: Friday, January 07, 2005 10:20 AM
To: Rhodes, Dennis; Groth, Nicole
Cc: Malaise, Gordon
Subject: Re: FW: Subsidized Guardianship Statutory Language

Hi Dennis:

The rationale behind the request was that we do not want to obtain another CHIPS order to allow a new caretaker to get a guardianship order under 48.977.

We also want to avoid having to use Chapter 880 for any subsidized guardianship cases.

Since Gordon feels that the previous CHIPS order will provide grounds to get a new guardianship order under 48.977, that's fine by me. As long as we can go the 48.977 route with new caretakers, we are OK.

In response to Gordon's question, as long as we can get the 49.977 guardianship for the new caretaker then the only possible concern is to be sure that the child or the new caretaker meet the eligibility requirements for subsidized guardianship payments. If Gordon thinks the existing language covers all the bases, we are OK.

Thanks for checking with us on this.

John Tuohy, Planning Director
DHFS-DCFS-OPEP
1 W Wilson Street, Room 550
Madison WI 53708-8916
Phone (608) 267-3832
Fax (608) 266-6836
>>> Rhodes, Dennis 01/07/05 08:43 AM >>>

-----Original Message-----

From: Malaise, Gordon [mailto:Gordon.Malaise@legis.state.wi.us]
Sent: Thursday, January 06, 2005 6:09 PM
To: Rhodes, Dennis
Subject: RE: Subsidized Guardianship Statutory Language

Dennis:

On closer review of DHFS' modifications I see another problem. Specifically, item 4. of the modifications says:

"If the child previously met the eligibility criteria for subsidized guardianship, there should be authority for the new caretaker to seek guardianship under s. 48.977 . . . Essentially, the new caretaker should be able to seek subsidized guardianship if approved by the Department without having to establish a CHIPS order for the child first."

The problem I have with this modification is that it is unnecessary. Section 48.977, as amended by the draft, does not prohibit an interim caretaker from seeking a guardianship order.

Moreover, there is no point in exempting the caretaker from establishing that there has been a CHIPS order because in every case there will already have been a preexisting CHIPS order in that the child has already met the conditions for the appointment of the original guardian under s. 48.977 (2), which conditions include a condition that there be a preexisting CHIPS order. See s. 48.977 (2). As such, it will be no burden whatsoever for the interim caretaker to meet that condition.

Accordingly, unless there is some rationale that I am missing, I will not draft that portion of the DHFS modifications at this time because the interim caretaker can simply seek a guardianship order in the same manner as did the original guardian.

Gordon

-----Original Message-----

From: Rhodes, Dennis
Sent: Monday, January 03, 2005 9:42 AM
To: Malaise, Gordon
Subject: FW: Subsidized Guardianship Statutory Language

Gordon,

DHFS has, now, comeback with comments on the Subsidized Guardianship draft. Do any of these raise problems in your opinion?

Thanks again,

Dennis

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Sent: Monday, January 03, 2005 9:34 AM
To: Rhodes, Dennis
Subject: Subsidized Guardianship Statutory Language

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Thanks,
Nicole